

BEFORE THE IDAHO STATE LICENSING BOARD OF PROFESSIONAL
COUNSELORS AND MARRIAGE & FAMILY THERAPISTS

In the Matter of the License of:)	
)	Case No. COU-2007-9
LYLE S. BOURCY,)	
License No. LCPC-2757,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
_____)	

WHEREAS, information has been received by the Idaho State Board of Professional Counselors and Marriage & Family Therapists (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Lyle S. Bourcy ("Respondent"); and

WHEREAS, on November 20, 2008, the Idaho Bureau of Occupational Licenses filed a formal Complaint against Respondent thereby initiating Case No. COU-2007-9 pursuant to Idaho Code § 54-3407, a contested case under the Idaho Administrative Procedure Act, chapter 52, title 67, Idaho Code; on December 11, 2008, Respondent filed his Answer to Complaint; and the hearing is scheduled for June 5, 2009; and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the practice of professional counseling and marriage and family therapy in the State of Idaho in accordance with title 54, chapter 34, Idaho Code.

A.2. The Board has issued License No. LCPC-2757 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 34, Idaho Code and the Board's rules at IDAPA 24.15.01, *et seq.* During the period of March 30, 2006,

through March 29, 2007, the Board Rules incorporated the 1995 ACA Code of Ethics. On March 30, 2007, and thereafter, the Board Rules incorporated the 2005 ACA Code of Ethics.

A.3. On December 22, 2005, Respondent began providing professional counseling to “Jack,” a young adult who was facing criminal charges.

A.4. Idaho Code § 54-3410A requires counselors to provide clients with accurate disclosure information at the beginning of treatment concerning the counselor’s practice, the receipt of which must be acknowledged in writing by the counselor and the client, including the right of clients to refuse treatment, the responsibility of clients for choosing the provider and treatment modality, the extent of confidentiality, the counselor’s relevant education and training, the therapeutic orientation of the practice, modalities or treatment utilized, financial requirements and a statement that licensure does not imply endorsement by the Board or effectiveness of treatment. At the beginning of Jack’s treatment, Respondent did not complete the disclosures required by Idaho Code § 54-3410A.

A.5. Respondent provided professional counseling to Jack from December 22, 2005 through September 20, 2007. During the following periods, Respondent provided professional counseling to Jack within the State of Oregon, although Respondent was not licensed by the State of Oregon to practice professional counseling in Oregon and he did not have an established practice in Oregon:

- a. March 10, 2006, through April 14, 2006;
- b. July 12, 2006 through August 1, 2006;
- c. August 24, 2006 through September 29, 2006; and
- d. August 29, 2007, through September 26, 2007.

A.6. During Respondent’s professional counseling relationship with Jack, Respondent gave gifts or loans to Jack including cash, a vacuum cleaner, cigars and a car; visited Jack at Jack’s residence; and followed Jack to an out-of-town campsite one night

where Respondent then left Jack some cigars.

A.7. On or about February 15, 2006, Respondent held a counseling session with Jack's parents "Mary" and "Dan" to discuss Jack and then offered to continue his counseling services to Mary and Dan. On April 7, 2006, Mary returned to individual therapy with Respondent. At the beginning of Mary's treatment, Respondent did not provide Mary with the written disclosures required by Idaho Code § 54-3410A, nor did Respondent obtain Jack's informed consent to Respondent entering into a professional counseling relationship with Jack's mother Mary.

A.8. From April 7, 2006, through October 20, 2006, Respondent provided individual therapy to Mary. During this time period, Respondent continued to provide professional counseling to Jack. When Jack expressed anxiety in June of 2006 about his parents' involvement in Jack's decision-making, Respondent did not withdraw from either professional counseling relationship nor did Respondent obtain informed consent from Jack to continue both relationships.

A.9. During their professional counseling relationship in 2006, Respondent developed a personal friendship with Mary.

A.10. On October 20, 2006, Respondent terminated his professional counseling relationship with Mary but offered to continue therapy with Mary as needed. Thereafter, before the end of 2006, Respondent developed a romantic and/or sexual relationship with Mary.

A.11. Respondent did not obtain informed consent from Jack to continue Respondent's professional counseling relationship with Jack at the same time that Respondent was romantically and/or sexually involved with Mary.

A.12. On December 14, 2006, a member of Mary's family confronted Respondent and Mary about their personal relationship and told them to end it. In front of Respondent, Mary admitted to the family member that Mary loved Respondent.

A.13. On February 14, 2007, another member of Mary's family confronted

Respondent and Mary about their continuing personal relationship. The family member told Respondent that his relationship with Mary was inappropriate.

A.14. On or about August 15, 2007, Respondent counseled Mary, Dan and Jack concerning a crisis relating to Jack's emotional health. In the late summer or early fall of 2007, Respondent's personal relationship with Mary continued.

A.15. On September 20, 2007, Jack severed his professional counseling relationship with Respondent, informing Respondent that Jack had heard Respondent was having an affair with Jack's mother Mary.

A.16. On October 25, 2007, despite Jack's termination of their relationship, Respondent sent a letter to Jack offering to talk and stating in part, "no one else needs to know that we are talking or communicating. The confidentiality rules still apply."

A.17. On March 17, 2008, Respondent met Mary for lunch, picking up Mary in Respondent's car. When Dan found out that Mary was in Respondent's car, Dan confronted Mary on the phone. Following this incident, Dan and Mary separated and then divorced.

A.18. Respondent continued his romantic and/or sexual relationship with Mary during her marital separation from Dan and following her divorce from Dan.

A.19. The allegations of Paragraphs A.3 through A.18, if proven, would violate the laws and rules governing the practice of professional counseling and marriage and family therapy, specifically:

a. Respondent's failure to provide accurate disclosure information concerning Respondent's practice at the beginning of treatment as required by Idaho Code § 54-3410A violated Idaho Code § 54-3407(5) and Idaho Code § 54-3410A.

b. Respondent's practice of professional counseling in the State of Oregon without an appropriate license issued by the State of Oregon violated Idaho Code § 54-3407(5), Board Rules 004 and 350 and: 1995 Code of Ethics C.2 (counselors practice within the boundaries of their competence, including state professional

credentials); and 2005 Code of Ethics C.2.a (same).

c. Respondent's personal friendship and later romantic and/or sexual relationship with Mary violated Idaho Code § 54-3407(5), Board Rules 004 and 350, and: 1995 Code of Ethics A.1 (counselors respect and promote the dignity and welfare of clients), A.3 (counselors obtain informed consent), A.5 (counselors do not meet personal needs at the expense of clients), A.6 (counselors avoid dual relationships), A.7 (counselors do not engage in sexual intimacies with former clients for two years after treatment); and B.4 (addressing recordkeeping); and 2005 ACA Code of Ethics A.1.b (addressing recordkeeping), A.2.a-b (counselors obtain informed consent), A.4.a (counselors avoid harming clients), A.5.a (counselors do not engage in sexual or romantic relationships with family members of clients), A.5.b (counselors do not engage in sexual or romantic relationships with former clients for five years after treatment), A.5.c (counselors do not engage in nonprofessional relationships with clients, former clients or family members of clients except when the interaction is potentially beneficial to the client) and A.5.d (defining limited beneficial interactions and requiring client consent).

d. Respondent's continuation of his professional counseling relationship with Jack while Respondent was in a personal friendship and later romantic and/or sexual relationship with Mary, and Respondent's failure to define and maintain proper boundaries of his professional counseling relationship with Jack, by making gifts and loans to Jack, visiting Jack at his residence and following Jack to the campsite, violated Idaho Code § 54-3407(5), Board Rules 004 and 350, and: 1995 Code of Ethics A.1 (counselors respect and promote the dignity and welfare of clients), A.3 (counselors obtain informed consent), A.5 (counselors do not meet personal needs at the expense of clients), A.6 (counselors avoid dual relationships), and B.4 (addressing recordkeeping); and 2005 ACA Code of Ethics A.1.b (addressing recordkeeping), A.2.a-b (counselors obtain informed consent), A.4.a (counselors avoid harming clients), A.5.a (counselors do not engage in sexual or romantic relationships with family members of clients), A.5.c

(counselors do not engage in nonprofessional relationships with clients, former clients or family members of clients except when the interaction is potentially beneficial to the client), A.5.d (defining limited beneficial interactions and requiring client consent) and A.5.e (counselors obtain informed consent for role changes).

e. Respondent's multiple professional counseling relationships with Jack and Mary violated Idaho Code § 54-3407(5), Board Rules 004 and 350, and: 1995 Code of Ethics A.3 (counselors obtain informed consent), A.5 (counselors do not meet personal needs at the expense of clients), A.8 (when providing services to clients who have a relationship, counselors clarify at the outset the nature of the counselor's relationships with each of them and clarify, adjust or withdraw from potentially conflicting roles), B.2 (addressing family counseling) and B.4 (addressing recordkeeping); and 2005 Code of Ethics A.1.b (addressing recordkeeping), A.2.a-b (counselors obtain informed consent), A.4.a (counselors avoid harming clients) and A.7 (when providing services to clients who have a relationship, counselors clarify at the outset the nature of the counselor's relationships with each of them and clarify, adjust or withdraw from potentially conflicting roles).

B. Waiver of Procedural Rights

I, Lyle S. Bourcy, by affixing my signature hereto, acknowledge that:

B.1. I have read and understand the allegations pending before the Board, as stated in Section A, Paragraphs A.1 through A.19. I further understand that these allegations, if proven, would constitute cause for disciplinary action upon my license to practice professional counseling in the State of Idaho but do not admit those allegations.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of professional

counseling in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation and to resolve the pending allegations without further expenditure of time or funds in order to buy my peace.

B.3. I understand that in signing this Stipulation I am agreeing that the Board may take the stipulated action upon my license without availing myself of further legal process.

C. Stipulated Discipline

C.1. Respondent Lyle S. Bourcy hereby agrees to voluntarily surrender License No. LCPC-2757 and all renewal and reinstatement rights pursuant to Idaho Code §§ 54-3415 and 67-2614 and Board Rule 400 (IDAPA 24.15.01.400) ("Renewal Rights"), as follows. Respondent shall immediately cease accepting new clients for professional counseling in the State of Idaho, and Respondent shall discontinue the practice of professional counseling in the State of Idaho, including the appropriate termination and/or referral of all current clients, within thirty (30) days of the adoption of this Stipulation by the Board and the signing of the Order. In accordance with Respondent's voluntary surrender of licensure, License No. LCPC-2757 issued to Respondent and all Renewal Rights associated therewith are hereby revoked by agreement, with said revocation to take effect on the thirtieth (30th) day after the adoption of this Stipulation by the Board and the signing of the Order.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of Eight Thousand and No/100 Dollars (\$8,000.00) within one (1) year of the date of entry of the Board's Order, One Thousand and No/100 Dollars (\$1,000.00) of which shall be paid within ten (10) days of the date of entry of the Board's Order.

C.3. Respondent agrees not to apply to the Board as a new applicant, at any time in the future, for any license to practice in the State of Idaho pursuant to title 54, chapter 34, Idaho Code and the Board's rules at IDAPA 24.15.01, *et seq.*

C.4. All costs associated with compliance with the terms of this Stipulation are

the sole responsibility of Respondent.

C.5. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to

Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order, title 54, chapter 34, Idaho Code or the Board's rules at IDAPA 24.15.01, *et seq.*; provided, however, that at any such hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

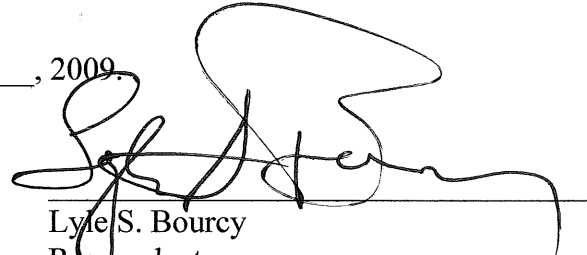
E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it

will be of no effect.

DATED this 28 day of May, 2009.


Lyle S. Bourcy
Respondent

Approved as to form.

DATED this _____ day of _____, 2009.

MOFFATT, THOMAS, BARRETT, ROCK
& FIELDS, CHTD.

By _____
Larry C. Hunter
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this _____ day of _____, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By _____
Emily A. Mac Master
Deputy Attorney General

will be of no effect.

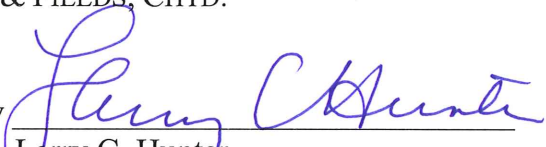
DATED this _____ day of _____, 2009.

Lyle S. Bourcy
Respondent

Approved as to form.

DATED this 28th day of May, 2009.

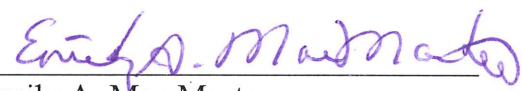
MOFFATT, THOMAS, BARRETT, ROCK
& FIELDS, CHTD.

By 
Larry C. Hunter
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 29th day of May, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By 
Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-3404, the foregoing is adopted as the decision of the Board of Professional Counselors and Marriage & Family Therapists in this matter and shall be effective on the 7th day of July, 2009. **IT IS SO ORDERED.**

IDAHO STATE LICENSING BOARD OF
PROFESSIONAL COUNSELORS AND
MARRIAGE & FAMILY THERAPISTS

By Roberta Crockett
Roberta Crockett, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of July, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Lyle S. Bourcy
1303 NW 16th Street, Suite C
Fruitland, ID 83619

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Larry C. Hunter
MOFFATT, THOMAS, BARRETT, ROCK
& FIELDS, CHTD.
P.O. Box 829
Boise, ID 83701-0829

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail

Tana Cory
Tana Cory, Chief
Bureau of Occupational Licenses